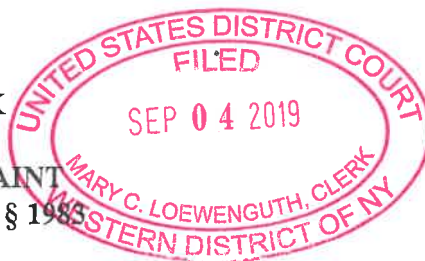


Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

All material filed in this Court is now available via the **INTERNET**. See **Pro Se Privacy Notice** for further information.

1. CAPTION OF ACTION**19 CV1175**

A. Full Name And Prisoner Number of Plaintiff: NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. David August Gambino #19757055
2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. Inter-Community Memorial Hospital "ICMH" 4. _____
2. _____ 5. _____
3. _____ 6. _____

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: David August Gambino #19757055
Present Place of Confinement & Address: Federal Correctional Institution Gilmer,
P.O. Box 6000, Glenville, WV 26351-6000

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Inter-Community Memorial Hospital "ICMH"
(If applicable) Official Position of Defendant: Hospital refusing to process FOIA requests.
(If applicable) Defendant is Sued in X Individual and/or X Official Capacity
Address of Defendant: 2600 William St, Newfane, NY 14108

Name of Defendant: _____
(If applicable) Official Position of Defendant: _____
(If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
Address of Defendant: _____

Name of Defendant: _____
(If applicable) Official Position of Defendant: _____
(If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in **state or federal court** dealing with the same facts involved in this action?
Yes _____ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:
Plaintiff(s): David Gambino NA
Defendant(s): _____
2. Court (if federal court, name the district; if state court, name the county): _____
3. Docket or Index Number: _____
4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

_____ Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun **any other lawsuits in federal court which relate to your imprisonment?**

Yes X No _____

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): David Gambino

Defendant(s): Allegany County Jail

2. District Court: U.S. District Court, Western District of New York.

3. Docket Number: don't have it off hand.

4. Name of District or Magistrate Judge to whom case was assigned: —

5. The approximate date the action was filed: 2013

6. What was the disposition of the case? dismissed pursuant PLRA 1915 screening.

Is it still pending? Yes _____ No X

If not, give the approximate date it was resolved. 2013

Disposition (check the statements which apply):

☒ Dismissed (check the box which indicates why it was dismissed):

- ☒ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

See Attachment

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

Attachment Page 1 of 3

B. 2

Plaintiff: David Gambino

Defendant: Payne, et al.,

District Court: U.S. District Court, Western District
of Western New York

Docket number: 1:12-cv-00824

~~Atty~~ Magistrate Judge Roemer

Date of action filed: 2013

Case disposition: Pre-Trial

B. 3

Plaintiff: David Gambino

Defendant: Pugh, et al.,

District Court: U.S. District Court, Ohio

Docket no: 4:13-cv-817

Magistrate Judge 3

Date of Action: 2013

Case Disposition: Original Dismissed without
prejudice to State Claims for Constitutional
Claims. Filed in State in 2013; Court of
Common Pleas, Dismissed. Appeal in Court
of Appeals of Ohio Seventh Appellate District,
I won reversal - sent back then lost on
technicality due to no ability to obtain
Certificate of Merit. Now dismissed.

Attachment Page 2 of 3

B.4

Plaintiff: David Gambino

Defendant: Bobby Meeks, et al.,

District Court: U.S. District Court,
Philadelphia Pennsylvania

Docket no.: 1:14-cv-00236

Date of action: 2014

Case disposition: Dismissed, Appealed
but affirmed; filed for extension
on Supreme Court filing due to Equitable
tolling for last 10 months of denial
of access to Court/1st Amendment violations.

B.5

Plaintiff: David Gambino

Defendant: Moubarek et al.,

District Court: U.S. District Court, District
of Maryland

Docket No: 8:17-cv-02311 TDC

Judge: Judge TDC

Date of Action: 2016, dismissed,

Appealed, no 16-6647

Disposition: Pre-Trial, discovery

Attachment page 3 of 3

B.6.

Plaintiff: David Gambino

Defendants: Hershberger, et al,

District Court: U.S. District Court, Maryland

Docket no.: TDC-17-1701

Date of Action: 2017

Case disposition: Pre-Trial, discovery

B.7

Plaintiff: David Gambino

Defendant: Cassano, et al,

District Court: U.S. District Court,

District of New Jersey, Camden

Docket no.: 1:17-cv-00830

Date of Action: 2017

Case Disposition: Summary Judgment, was
given a Attorney, should be going to trial

Purposefully Blank

Inter-Community
Memorial Hospital
2600 William St
Newfane, NY 14108

Attachment 3
Page 1 of 6

Date:

3/29/2019

RE: FREEDOM OF INFORMATION AND PRIVACY ACT REQUEST
PURSUANT TO TITLE 5 U.S.C. §552, §552(a) (FOIA/PA)

Dear Hospital Records ;

Please consider this a Formal Request under the FOIA/PA. Your immediate and strict compliance with this request is fully expected, pursuant to Section 552(a)(6)(A)(i).

Because there is an exceptional need and urgency for the information sought, I expect a response to this request within the twenty (20) working day period provided under the law. The requested information, when disclosed, will relieve the requestor of Constitutional deprivations. Therefore, the requestor asks that this FOIA/PA request be given priority and expeditious consideration.

In order to help determine my status, and to assess fees, you should know that I am a Federal Inmate, and herein certify that I am a pauper within the meaning of 28 U.S.C. §1915, and I am unable to pay for search and copy fees. I request a waiver of fees for this request. Disclosure of the requested information to me is in the public interest, as it is likely to contribute significantly to the clarification of Constitutional and/or legal issues. The information requested is for personal use and will not be used for any commercial purposes.

The information and documents I am requesting are outlined herein as follows:

Any and all document, electronic copies, or paper copies of who released my medical files of medical treatments, services, and medical records from June of 2012 to present day (3/29/2019). I was a inmate at Niagara County Jail from 11/17/2009 to June of 2012. I sued Niagara County Jail in 2012. I found out that your Hospital had sole control of my medical records. However, I never signed a medical Release pursuant HIPAA. I want ANY and ALL information on who, why, where, and when my Medical Records were released!

I am also attaching an information and data sheet to assist you in locating the requested materials in compliance with 28 C.F.R. Section 16.41.

This request is to include all local records, as well as records stored or filed at the Central Office of the Agency from which the request is made.

Sincerely yours,

D.O.B. 12/30/1973
Social Security: 128561205


David A Gambino
3/29/19

ATTACHMENTS

I have included a HIPAA Release, and a Certificate of Identity.

Case 1:19-cv-01175-EAW Document 1 Filed 09/04/19 Page 10 of 19
AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Attachment 3 2018

Patient Name <i>David August Gambino</i>	Inmate # <i>19757055</i>	Date of Birth <i>10/30/73</i>	Social Security Number <i>128 56 1205</i>
Patient Address <i>Federal Correctional Institution Schuylkill PO Box 759, Minersville, PA 17954</i>			

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the even the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.

2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.

3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.

4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.

5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.

6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY MENTAL HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9(b).**

7. Name and address of health provider or entity to release this information:

Eastern Niagara Hospital, 501 East Ave, Lockport NY 14094

8. Name and address of person(s) or category of person to whom this information will be sent:

David Gambino #19757055, F.C.I. Schuylkill, PO Box 759, Minersville, PA 17954

9(a). Specific information to be released: *Any and all documents, memos, requests, E-mails or communications for, or about the release or dissemination of my medical records created from 11/17/2009 to June 2012, and released or disseminated from June 2012 to present day. From June 2012 to present day, my medical records have been being used in a court case. However, I did not release them. I want to know who, where, why, and when my medical records were released for use in court, or by the Niagara County Jail, its Attorneys, or by any one ever from June 2012 to present day.*

10. Reason for release of information:
 At request of individual: *Privacy Act Violation*
 Other: *Litigation*

11. Date or event on which this authorization will expire:

11/1/2029

12. If not the patient, name of person signing form:

13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form. *David Gambino*

Date:

3/29/2019

Signature of patient or representative authorized by law.

*Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

Attachment 3
3 of 6

U.S. Department of Justice

Certification of Identity

FORM APPROVED OMB NO. 1103-0016
EXPIRES 03/31/17

Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ David August Gambino *I amate ID 19757055*

Citizenship Status ² U.S. citizen Social Security Number ³ 128 56 1205

Current Address Federal Correctional Institution Schuylkill, Schuylkill, PA 17954 *PO Box 759, Mifflinville, PA 17954*

Date of Birth 12/30/1973 Place of Birth Buffalo NY

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ [Signature] Date 3/29/2019

¹ Name of individual who is the subject of the record(s) sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

Attachment 3 4 of 6

Date: April 29th, 2019

TO: Inter-Community Memorial Hospital, 2600 William St.
Newfane, NY 14108

From: David A Gambino, Inmate #1: 19757055
social security no.: 128561205

Birth Date: 12/30/73

Federal Correctional Institution Schuylkill
PO BOX 759, Minersville, PA 17954

RE: First Request for a answer to Freedom
of Information Act "F.O.I.A." that I
filed on 3/29/2019

I, David Gambino, filed a F.O.I.A. request for
documents relating to my medical records release to
ANYONE From 2012 to present day. I was a
inmate at Niagara County Jail from 11/17/2009 to
June 2012. I sued Niagara County Jail
for medical abuse and some one released my
medical records from your hospital to Niagara
County Jail Defendants. Please Respond to the
F.O.I.A. I Filed/sent to your hospital on 3/29/
2019. Please direct all correspondences to above
address.

Thank you.

David Gambino

 4/29/2019

Attachment 3 5 of 6

Date: May 29th, 2019

TO: Inter-Community Memorial Hospital, 2600 William
st, New Fane, NY 14108

From: David A Gambino, Inmate reg. No.: 19757055
Date of Birth: 12/30/73; Social Security #: 128561205
Federal Correctional Institution Schuylkill
PO BOX 759; Minersville, PA 17954

RE: Second Request for a answer to Freedom
of Information Act Request for Medical
Records - which was filed on 3/29/2019 with
a signed Authorization for Release pursuant HIPAA.

I, David Gambino, Filed a F.O.I. A. Request, with
HIPAA HIPAA release on 3/29/2019. On April
24th of 2019, I sent a "First Request" after
waiting 30 days. I have yet to recieve
ANY Response to the F.O.I. A. request, nor a
response to my (1st) Request. Please provide me
with ANY indication my F.O.I. A. is being processed,
or provide me with ANY information to aid me in
this process

Thank you.

David Gambino

5/29/2019



*Please TAKE NOTICE * Attachment 3
6 of 6

Date August 1st, 2019

TO: Inter-Community Memorial Hospital, 2600
William St, Newfane, NY 14108

From: David A Gambino, inmate # 19757055
Date of Birth: 12/30/1973 Social Security # 128561205
Federal Correctional Institution Gilmer
PO BOX 6000, Glenville, WV 26351-6000

RE: Notice of NON-compliance in F.O.I.A. request,
and intent to Sue Notice.

I, David Gambino, have not heard from the above
named Hospital About my Filed F.O.I.A. request, filed
on 3/29/2019. My first request for response was filed
on April 29th 2019 has been ignored. My second Request
for Response filed on May 29th 2019 Has been ignored.
Here today, I make my 3rd request for response,
or directions on how to obtain a response. My
New Address, which is shown above, is where I am
housed. Please respond within 20 days or I
will file a claim of denial of my Rights in the
Federal District Court, Western District of New York
By no later than September of 2019. Please process
my F.O.I.A. request, or provide ANY information
to aid and assist me in my attempt to get a
response to my request.

Thank you

David Gambino 8/1st/2019

Notice of Intent to Sue for
Non-Compliance in F.O.I.A. request

A. FIRST CLAIM: On (date of the incident) 8/1/2019,

defendant (give the **name and position held** of **each defendant** involved in this incident) Inter-Community Memorial Hospital, Hospital in control of my Medical Records.

did the following to me (briefly state what each defendant named above did): On 8/1/2019, I had filed my 3rd Request for the processing of my FOIA request filed on 3/29/2019. On 4/29/2019 I filed my First Request. On 5/29/19, I filed my Second Request. On 8/1/2019 I filed my 3rd Request for my 3/29/2019 FOIA request. All request have led to NO Response at all.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Freedom of Information Act

The relief I am seeking for this claim is (briefly state the relief sought): Immediate Release of Information Requested unredacted, and ~~\$10,000.00~~ \$1,000,000.00

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? X Yes No If yes, what was the result? NO response, also, No Prison Grievance Process is available for Release of ICMH

Did you appeal that decision? Yes No If yes, what was the result? see Attachment B

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so:

A. SECOND CLAIM: On (date of the incident) ,

defendant (give the **name and position held** of **each defendant** involved in this incident)

did the following to me (briefly state what each defendant named above did): _____

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? X Yes _____ No If yes, what was the result? NO Resonse
ever

Did you appeal that decision? X Yes _____ No If yes, what was the result? NO responce
ever

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Immidiante Release of Requested Medical Records unredacted,
and ~~\$100,000.00~~ \$1,000,000.00


Do you want a jury trial? Yes X No X

Per 8/24/2019

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/23/2019
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*



David Benbrin

Signature(s) of Plaintiff(s)

FOREVER USA



⇌ 19757-055 ⇌
Clerk Us District Court
Legal mail
2 Niagara SQ
Buffalo, NY 14202

⇌ 19757-055 ⇌
David Gam
Federal Cd
Institution
PO BOX 6000
Glenville, WV 26351-6000
United States



JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

David August Gambino
Reg# 1975055 F.C.I. Gilmer, PO BOX 6000
Glennville, WV 26531-6000

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

F.C.I. Gilmer, PO BOX 6000,
Glennville, WV 26351-6000

DEFENDANTS

Inter-Community Memorial
Hospital, 2600 William St,
Newfane, NY 14108

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

2600 William St, Newfane
NY 14108

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FOIA violation 895
 Brief description of cause:
 Hospital is avoiding being found to have committed HIPAA violations by ignoring FOIA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ Release of FOIA or \$1,000,000.00
 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE WOLFORD

DOCKET NUMBER 1:17-cv-00824

DATE 8/23/19 SIGNATURE OF ATTORNEY OF RECORD Pro Se

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE